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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/912,824	07/25/2001	William C. Olson	62942-B/JPW/SHS	7125

7590

07/02/2003

John P. White
Cooper & Dunham, LLP
1185 Avenue of the Americas
New York, NY 10036

EXAMINER

PARKIN, JEFFREY S

ART UNIT

PAPER NUMBER

1648

DATE MAILED: 07/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n No.

09/912,824

Applicant(s)

OLSON ET AL.

Examin r

Jeffrey S. Parkin, Ph.D.

Art Unit

1648

-- The MAILING DATE of this communication appears on the cover sheet with th corresp ndenc address --

P ri d for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2001 .
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,43 and 46-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,43 and 46-48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Pri rity under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____ .
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) Z .
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____ .

Detailed Office Action

Status of the Claims

1. Acknowledgement is hereby made of receipt and entry of the preliminary amendment filed 25 July, 2001, wherein claims 3-42, 44, 45, and 49-51 were canceled without prejudice or disclaimer. Claims 1, 2, 43, and 46-48 are currently under examination.

Information Disclosure Statement

2. The information disclosure statement filed 11 June, 2002, has been placed in the application file and the information referred to therein has been considered.

35 U.S.C. § 103(a)

3. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. § 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of

the obligation under 37 C.F.R. § 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. § 103(c) and potential 35 U.S.C. § 102(f) or (g) prior art under 35 U.S.C. § 103(a).

5. Claims 1, 43, 46, and 48 are rejected under 35 U.S.C. § 103(a) as being unpatentable over the combined teachings of Lee et al. (1999) and Furuta et al. (1998). Lee and colleagues (1999) provide monoclonal antibodies that bind to the HIV-1 chemokine coreceptor CCR5 and inhibit viral binding to said receptor. Furuta and associates (1998) provide a compound that prevents Env-mediated membrane fusion by binding to a fusion intermediate. Therefore, it would have been *prima facie* obvious to one having ordinary skill in the art at the time the invention was made to combine two known compounds that are capable of inhibiting viral replicative events into a single composition since this would provide a more efficient antiviral compound. One of ordinary skill in the art would have also been motivated to employ such a composition in inhibitory methodologies to prevent HIV-infection.

6. Claims 2, 43, 47, and 48 are rejected under 35 U.S.C. § 103(a) as being unpatentable over the combined teachings of Lee et al. (1999) and Furuta et al. (1998), as applied supra to claims 1, 43, 46, and 48, and further in view of Valenzuela et al (1997). Valenzuela and colleagues provide neutralizing monoclonal gp120-specific antibodies that block HIV-1 gp120 CD4-dependent and -independent binding. Therefore, it would have been *prima facie* obvious to one having ordinary skill in the art at the time the invention was made to combine three known compounds that are capable of inhibiting viral replicative events into a single composition since this would provide a more efficient antiviral

compound. One of ordinary skill in the art would have also been motivated to employ such a composition in inhibitory methodologies to prevent HIV-infection.

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Correspondence

7. The Art Unit location of your application in the Patent and Trademark Office has changed. To facilitate the correlation of related papers and documents for this application, all future correspondence should be directed to **art unit 1648**.

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8. Correspondence related to this application may be submitted to Group 1600 by facsimile transmission. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). Official communications should be directed toward one of the following Group 1600 fax numbers: (703) 308-4242 or (703) 305-3014. Informal communications may be submitted directly to the Examiner through the following fax number: (703) 308-4426. Applicants are encouraged to notify the Examiner prior to the submission of such documents to facilitate their expeditious processing and entry.

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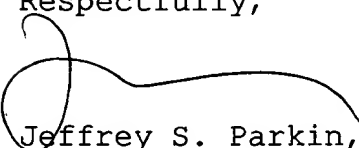
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9. Any inquiry concerning this communication should be directed to Jeffrey S. Parkin, Ph.D., whose telephone number is (703) 308-2227. The examiner can normally be reached Monday through Thursday from 8:30 AM to 6:00 PM. A message may be left on the examiner's voice mail service. If attempts to reach the examiner are unsuccessful, the examiner's supervisors, Laurie Scheiner or James Housel, can be reached at (703) 308-1122 or (703) 308-4027, respectively. Any inquiry of a general nature or relating to the status of this application should be directed to the Group 1600 receptionist whose telephone number is (703) 308-0196.

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Respectfully,


Jeffrey S. Parkin, Ph.D.
Patent Examiner
Art Unit 1648

23 June, 2003